

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ERIC TODD GARCIA,

Plaintiff,

vs.

No. CV 19-00647 MV/KBM

CURRY COUNTY,

Defendant.

ORDER TO CURE DEFICIENCIES

THIS MATTER is before the Court on the pro se handwritten filing by Plaintiff Eric Todd Garcia. (Doc. 1). The Court determines that the pro se filing is deficient because it is not in proper form or signed by Plaintiff, and Plaintiff has not paid the \$400 filing fee or filed an Application to Proceed in the District Court Without Prepaying Fees and Costs.

Plaintiff states that “this 1983 tort claim is infact coming to this district court with all defendants acting of color of state.” (Doc. 1 at 1). The filing alleges:

“Curry county detention center staff have been opening my legal mail without me present. It is opened in the email room by staff members in the day, and papers are brought to me at night. By co without envelop. Multipule staff members look at my legal documents and read them without me present. Problem continued happening even after entering grivence.”

(Doc. 1 at 1) (errors in the original). Plaintiff’s filing appears to assert § 1983 civil rights claims against Curry County facilities or officials. (Doc. 1 at 1). A civil rights complaint under 42 U.S.C. § 1983 is the exclusive vehicle for vindication of substantive rights under the Constitution. See, *Baker v. McCollan*, 443 U.S. 137, 144 n. 3 (1979); *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (claims against state actors must be brought under 42 U.S.C. § 1983). The filing is not in proper form to assert civil rights claims and is not signed as required by Fed. R. Civ. P. 11(a).

In addition, under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required to collect the federal filing fee from the Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has not paid the \$400.00 filing fee or submitted an application to proceed under § 1915.

Plaintiff must cure the deficiencies if he wishes to pursue his claims. The deficiencies must be cured within thirty (30) days of entry of this Order. Plaintiff must include the civil action number, CV 19-00647 MV/KBM, on all papers he files in this proceeding. If Plaintiff fails to cure the deficiencies within thirty (30) days, the Court may dismiss this proceeding without further notice.

IT IS ORDERED that, within thirty (30) days of entry of this Order, Plaintiff Eric Todd Garcia cure the deficiencies by (1) paying the \$400 filing fee or submitting an Application to Proceed in the District Court Without Prepaying Fees and Costs and (2) filing a prisoner civil rights complaint in proper form.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to mail to Plaintiff, together with a copy of this order, (1) two copies of an Application to Proceed in the District Court without Prepaying Fees and Costs under 28 U.S.C. § 1915, with instructions, and (2) a form prisoner civil rights complaint under 42 U.S.C. § 1983, with instructions.


UNITED STATES MAGISTRATE JUDGE